

Appl. No. : 10/754,919  
Filed : January 10, 2004

### REMARKS

In response to the Office Action mailed August 22, 2006, Applicant respectfully requests the Examiner to reconsider the above-captioned patent application in view of the following comments. Claims 1-40 remain pending, of which Claims 8-19 and 35 have been withdrawn from consideration. No claims are amended, added or cancelled in this paper.

The results of the Office Action mailed August 22, 2006 are summarized as follows:

CLAIM NOS.	DISPOSITION/REJECTION		
	BASIS	PRIMARY REFERENCE	SECONDARY REFERENCE(S)
1-4, 20-23, 27-29, 31, 33-37, 39	102(b)	DiMatteo US 6,440,164	n/a
5, 24, 30, 38	103(a)	DiMatteo US 6,440,164	Duran US 5,489,297
6, 7, 25, 26, 32, 40	103(a)	DiMatteo US 6,440,164	Soetikno US 2002/0143387

#### Anticipation by DiMatteo

Applicant respectfully submits that DiMatteo does not teach all of the elements recited in Claim 1. In the current Office Action the following portion of DiMatteo is cited as teaching formation of the entire DiMatteo device of a bioabsorbable material:

[E]ach of the valve leaf apertures may be covered with cultured tissue cells derived from a either a donor or the host patient which are attached to the valve leaf frames. The cultured tissue cells may be initially positioned to extend either partially or fully into each valve leaf aperture. In order to provide additional support to the attached cultured tissue cells, a microfilter-type support mesh spanning the valve leaf aperture may also be provided. The present invention further contemplates that the supporting scaffold and valve leaf frames may be formed of either a bioabsorbable material or a non-bioabsorbable material. It is contemplated that the scaffold and valve leaf frames which are formed from a bioabsorbable material will eventually be displaced by the tissue cells as the tissue cells mature. Eventually the cells alone will provide the fully functioning valve.

DiMatteo at Col. 2:59 – 3:6.\*

Contrary to the interpretation proposed in the Office Action, the cited portion of DiMatteo teaches valve leafs which remain in the patient instead of being absorbed. The valve leafs of the DiMatteo device are described as being “covered with cultured tissue cells.” After implantation of the device, these cells “mature” and “[e]ventually ... provide the fully functioning valve.” Thus, the DiMatteo valve leafs are durable rather than absorbable.

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This stands in contrast to Claim 1, which recites:

1. A temporary absorbable venous occlusive stent, comprising:
  - a stent body having a proximal portion and a distal portion;
  - a bio-absorbable material associated with said stent body; and
  - bio-absorbable means for blocking blood flow past said stent when implanted in a vein, at least a portion of said bio-absorbable means disposed at the proximal portion, the distal portion, or at a location between the proximal portion and the distal portion.

Accordingly, Applicant respectfully submits that the rejection of Claim 1 over DiMatteo should be reconsidered and withdrawn. Moreover, although independent Claims 20, 29 and 37 recite combinations of features which differ somewhat from that recited in Claim 1, Applicant submits that these claims are not anticipated by DiMatteo for at least the reasons set forth above.

#### Dependent Claims

Dependent Claims 2-7, 21-28, 30-36 and 38-40 are believed to be in condition for allowance, by virtue of their dependence from an allowable base claim as well as their recitation of further novel and non-obvious combinations of features.

#### Supplemental Information Disclosure Statement

Applicant submits herewith a Supplemental Information Disclosure Statement listing additional references, the consideration of which is respectfully requested.

#### Conclusion

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, issuance of a Notice of Allowance is most earnestly solicited.

Any arguments in support of patentability and based on a portion of a claim should not be taken as founding patentability solely on the portion in question; rather, it is the combination of features or acts recited in a claim which distinguishes it over the prior art.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped

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\* Another portion of DiMatteo (10:46-49) cited as teaching formation of the entire DiMatteo device from bioabsorbable material is largely similar.

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issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney, Mark J. Kertz at (949) 721-6318 to resolve such issue(s) promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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By: Paul N. Conover  
Paul N. Conover  
Registration No. 44,087  
Attorney of Record  
Customer No. 20,995  
(949) 760-0404

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